

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA §
§
v. § CRIMINAL ACTION NO. 4:11-CR-007
§
ANDREW DUANE TRUMP §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 3, 2016, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Jay Combs.

On January 4, 2012, Defendant was sentenced by the Honorable United States District Judge Marcia A. Crone to thirty-seven (37) months of imprisonment followed by a three (3) year term of supervised release for the offense of Felon in Possession of a firearm and ammunition in violation of Title 18, United States Code, Section 922(g)(1). In 2014, Defendant originally completed his period of imprisonment. Following his revocation, a new term of supervised release began on May 31, 2016.

On October 6, 2016, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 88 Sealed]. The Petition asserted that Defendant violated seven (7) conditions of supervision, as follows: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not unlawfully possess a controlled substance; (3) Defendant shall refrain from excessive use of alcohol and shall not

purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician; (4) Defendant shall not leave the judicial district without permission of the Court or probation officer; (5) Defendant shall report to the probation officer, and shall submit a truthful and complete written report within the first five days of each month; (6) Defendant shall pay a fine in the amount of \$7,500 on a monthly basis at a rate of at least 10% of his monthly gross income; and (7) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the Defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following acts: (1), (2), and (3) On August 24, 2016, Defendant was arrested by the Memphis, Tennessee, Police Department on charges of Possession of a Controlled Substance with Intent to Manufacture, Deliver, or Sell Methamphetamine; Possession of a Controlled Substance with Intent to Manufacture, Deliver, or Sell Heroin; Possession of a Controlled Substance Marijuana; and Possession of Drug Paraphernalia. According to the offense report, Memphis Police Department responded to a felony drug violation complaint at a local motel. Defendant was subsequently located inside a room in the motel which contained a variety of drug paraphernalia, and a small quantity of marijuana, methamphetamine and heroin. Defendant was booked into custody and transported to the Shelby County Jail, in lieu of \$50,000 bond. On September 23, 2016, the Defendant appeared in court in Shelby County, Tennessee, and was found guilty of the offense of Possession of Methamphetamine, Case No. 16-125957, a Class A misdemeanor, and sentenced to 30 days, and a \$750 fine. No additional charges were filed stemming from the Defendant's arrest, and he was released from custody on September 23, 2016 after being given credit for time

served; (4) Defendant left the judicial district without permission of the probation officer, as evidenced by his arrest in Memphis, TN, on August 24, 2016; (5) Defendant failed to report to the probation office for the months of June, July, and August 2016. On July 20, 2016, the probation officer attempted to make contact with the Defendant at his last known address, 905 E. Wallisville Road #45, Highlands, TX; however, no contact was made with the Defendant. The probation officer mailed the Defendant a letter on August 4, 2016, instructing him to report on August 17, 2016; however, he failed to report as directed; (6) Defendant failed to make fine payments during the months of June, July, and August 2016. As of this writing, the outstanding fine balance is \$5,300.00; and (7) On May 31, 2016, Defendant was referred for outpatient substance abuse treatment at Unlimited Visions in Baytown, Texas. The probation officer and treatment agency made numerous attempts to contact the Defendant, to no avail. On August 9, 2016, the Defendant was unsuccessfully discharged from treatment services, due to his failure to report for his initial treatment evaluation.

Prior to the Government putting on its case, Defendant entered a plea of true to allegation one (1) of the Petition, specifically that Defendant was arrested by the Memphis, TN Police Department on charges of Possession of a Controlled Substance with Intent to Manufacture, Deliver, or Sell Methamphetamine; Possession of a controlled substance with intent to manufacture, deliver, or sell heroin; possession of a controlled substance, marijuana; and Possession of Drug Paraphernalia. The Government dismisses allegations two (2) through seven (7). Having considered the Petition and the plea of true to allegation one (1), the Court finds that Defendant did violate his conditions of supervised release by failing to notify his probation officer of his arrest on August 24, 2016 by the Memphis, Tennessee Police Department.

Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eleven (11) months, with no term of supervised release to follow. It is further ordered that the Defendant shall pay a fine of \$7,500.00 with credit being given for any past payments made toward this amount.

The Court also recommends that Defendant be housed in the Bureau of Prisons Beaumont facility, if appropriate.

SIGNED this 7th day of November, 2016.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE